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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/084,820  
Filing Date: February 27, 2002  
Appellant(s): GRISWOLD, CHAUNCEY W.

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Garrettson Ellis  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8 August 2007 appealing from the Office action mailed 21 February 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,110,041	Walker et al.	08-2000
5,429,361	Raven et al.	07-1995
2002/0047044	Orus et al.	04-2002
6,150,921	Werb et al.	11-2000

Phillips Press Release, Leading-edge smart card technology meets smartest watch technology, (29, August 2000)

Wikipedia Article, Biometrics

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claim Rejections -35 USC § 103**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-4, 6-8, 19-20, 26, 31, 32-37, and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,110,041) in view of Raven et al. (U.S. 5,429,361) and further in view of Orus et al. (U.S. Patent Application Publication 2002/0047044 A1).

Walker et al. discloses a method and system for adapting gaming devices to a player's playing preferences. In particular, a gaming machine is networked to a central server, which receives preference data from a player and configures the gaming machine to match the received preference data. The player inserts an electronic player tracking card '(and/or other "biometric" data is used) to authenticate that a particular player is on a machine by transmitting data to a central server. Once this data is authenticated the

central server programs or configures the gaming machine to the player's preferences.

Walker et al. additionally discloses:

Regarding Claims 31 and 32:

displaying to the gaming machine a card carried by the player, said card comprising suitable electronics for data transmission, causing transfer of first individualized data concerning the player from the card to the gaming machine or to a computer network associated with the gaming machine (Abstract, Figs. 1-11B, Column 2, lines 13-53, Column 3, lines 46-54, Column 4, lines 6-64, and Column 9, lines 35-37);

- providing biometric sensing as a separate, personal identification to the gaming machine (Column 6, lines 39-61); and
- evaluating the data against a stored database, and activating said gaming machine for said subsequent play upon favorable evaluation of said data, and, during or after said subsequent play, causing the transfer of second, individualized data back to the card to be stored (Abstract, Figs. 1-11B, Column 2, lines 13-53, Column 3, lines 46-54, Column 4, lines 6-64, and Column 9, lines 35-37).

Regarding Claims 3 and 32:

- the player manually or physically actuates the gaming machine (Column 6, lines 39-61).

Regarding Claim 4:

- the player provides a separate, personal identification to the gaming machine in the form of letters or numbers as a necessary prerequisite to said machine activation (Column 6, lines 47-49).

Regarding Claims 6 and 33:

- after evaluation of said data, the gaming machine is activated in a specific mode selected from a plurality of possible modes of activation, the specific mode being a function of the individualized data (Abstract, Figs. 1-11B, Column 2, lines 13-53, Column 3, lines 46-54, Column 4, lines 6-64, and Column 9, lines 35-37).

Regarding Claims 7 and 34:

- the specific mode selected comprises a particular game or choice of games to be played (Figure 5).

Regarding Claims 8 and 35:

- the specific mode selected comprises a special offer of a benefit or activity for the player (Figure 5).

Although Walker et al. discloses a player tracking card and tracking card reader which deposits/withdraws virtual cash or credits to/from a player tracking card based upon a player's winnings/losses, Walker et al. seems to lack explicitly disclosing:

Regarding Claims 31 and 32:

- a contactless player tracking card having electronics and an antenna causing a wireless transfer of player data to a gaming machine or computer network; and
- upon favorable evaluation of said data, said gaming machine providing a personalized greeting to the player.

Regarding Claims 26 and 40:

- microprocessor providing a plurality of separate accounts to the user.

Regarding Claims 41 and 42:

- the player manually or Physically actuates the gaming machine by pressing a button.

Raven et al., like Walker et al., teaches of a gaming machine that can be used via smart card technology to identify special players, transmit messages, and transmit player preference data to the gaming machine and is therefore analogous art. However, Raven et al. seems to lack explicitly teaching using biometric data as a separate identification means. Raven et al. teaches:

Regarding Claims 31 and 32:

- upon favorable evaluation of said data, said gaming machine providing a personalized greeting to the player (Column 7, lines 50-56).

Orus et al. does not teach transmitting player preference data to a slot machine based on identification data read from a player-tracking card. Instead, Orus et al. teaches of a system and method for securely transferring, via bi-directional wireless communication, bets and winnings to/from contactless gambling cards and slot machine/slot machine networks based on identification data read from a player tracking card. Orus additionally teaches:

Regarding Claims 31 and 32:

- a contactless player tracking card having electronics and an antenna causing a wireless transfer of player data to a gaming machine or computer network (Paragraphs 2,

14-16, 18, and 33).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to modify Walker in view of Raven's gaming machine with Orus' contactless gaming card system. One would be motivated to do so because this would provide a secure data exchange over a network, wherein a security module calculates an authentication certificate from secret data stored on the memory of the contactless gambling card and the monitoring means checks the authentication certificate calculated by the security module corresponding to the authentication certificate calculated by the contactless gambling card.

Regarding Claims 26 and 40, it would have been obvious to one having ordinary skill in the art, at the time of applicant's invention, to provide access to a plurality of separate accounts for a player with a single contactless gambling card. That is, individual accounts for slot machines, poker machines, and other gaming machines. Otherwise, players would have to use multiple contactless gambling cards in a casino to play a variety of games, which would totally defeat the purpose of having a contactless gambling card in the first place.

Regarding Claims 41 and 42, it would have been obvious to one having ordinary skill in the art, at the time of applicant's invention, to provide a button or start button to active a gaming machine. It is well known in the art that gaming machines, like slot machines and



arcade gaming machines, have a start button to activate, start, run, or. actuate them.

3. Claims 2 1-22 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6,110,041) in view of Raven et al. (U.S. 5,429,361) and Orus et al. (U.S. Patent Application Publication 2002/0047044 A1) and further in view of (Philips Semiconductors - Leading-edge smart card technology meets smartest watch technology - Press release) (Philips Semiconductors).

Walker et al. in view of Raven et al. and Orus et al. teaches that as discussed above regarding claims 3-4, 6-8, 19-20, 26, 31, 32-37, and 40-42. However, Walker et al. in view of Raven et al. and Orus et al. seems to lack explicitly stating:

Regarding Claims 21 and 38:

- the card is carried by the player in the form of an article of personal adornment or clothing.

Regarding Claims 22 and 39:

- the card is carried by the player in the form of a wristwatch.

Philips Semiconductors teaches of a contactless smart card controller IC incorporated into a watch. The watch can support multiple communications protocols and have endless applications for personal identification and storing personal data. Philips Semiconductors teaches:

Regarding Claims 21 and 38:

- the card is carried by the player in the form of an article of personal adornment or

clothing (pp. 1-3).

Regarding Claims 22 and 39:

- the card is carried by the player in the form of a wristwatch (pp. 1-3).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Philips Semiconductor watch technology in Walker in view of Raven and Orus. One would be motivated to do so because Philips Semiconductors watch technology provides a highly attractive and convenient carrier for the smart card technology enabling a player access to a gaming machine with both hands at all times.

#### **(10) Response to Argument**

##### **Examiner's Summary of the Invention**

This invention is drawn to an RFID card to be used in connection with slot machines & other gambling devices. In order to activate a gaming device, the patron must approach the slot machine & then perform some validation step to activate the machine. This validation step performs two functions. First, it positively identifies the player. Second, it prevents the slot machine from accidentally being activated by a patron walking by the machine. Appellant has chosen to use a biometric device to perform this validation step.

Once the validation step is performed, the system reads data from the RFID device & configures the slot machine to provide a personal greeting. The system also writes data to the RFID device.

Appellant appears to agree that the cited prior art teaches all of the elements

present in the claims. Appellant does not, however, agree that the prior art can be legitimately combined to teach the claimed invention.

### **Arguments**

#### **A. Rejection of claims 4, 6-8, 19-20, 26 & 31**

Appellant argues that one of ordinary skill in the art would interpret the references as teach the use of either a non-contact card or biometric data to identify the gamer. (Brief, page 5, emphasis in the original.) Examiner disagrees.

Casinos issue player tracking cards for a number of purposes. These cards are not only used to track player activity at the slot machines, they are also used to track activity at the gaming tables; to control access to certain gaming areas within the casino; to control & track access into non-gaming areas (restaurants, theaters, lounges, etc.) and to identify the player's status to casino employees.

For some of these uses, absolute confirmation of the user's identity is not critical. If someone gains access to a lounge while using someone else's card, no real harm is done. Nor is it possible to perform a biometric scan of everyone who wishes to enter a lounge. A casino does not want high rollers to have to wait in line while a system does a biometric scan.

Nor are biometric identification systems foolproof. As can be seen from the Wikipedia entry for biometrics, some systems have an error rate of 10% or more. (See page 5) The article also points out that some systems can be fooled by using photocopies of a fingerprint. (See page 6) This suggests that use of biometrics alone would not be sufficient to provide the positive identification desired by a casino. Furthermore, since

casinos have been in the forefront of biometric technology, one skilled in the art would recognize the limitations of a purely biometric system.

On the other hand, there are times when mere possession of a player tracking card does not provide enough security. Anytime that money changes hands, the casino wants to be sure that they correctly identify the player. Possession of a card is not sufficient to positively identify a person. This fact has long been recognized by practitioners of the art and laymen alike. For instance, in order to withdraw money from a bank account with a debit card, some means of identifying the user (usually a personal identification number) is required in addition to possession of the card. A combination of card possession and a biometric scan can provide assurance that the person involved in the financial transaction is who he purports to be.

Furthermore, as Werb discloses the use of RFID devices combined with biometrics to provide confirmation of the identity of the person carrying the card. (Col 18, 20-25) While Werb is not relied upon to reject the claims, it provides evidence concerning the state of the art at the time of the invention.

Examiner contends that given the state of the art at the time of the invention, one of ordinary skill would not have implemented a system involving player accounts with a player tracking card alone. Nor, given the known limitations of biometric systems, would one skilled in the art have implemented a purely biometric system. Since it was known in the art to combine RFID tags with biometrics to confirm the identity of the person carrying the RFID tag, one of ordinary skill would have adopted the dual identification system in order to positively identify the player.

Nor should it be overlooked that combining RFID devices with biometrics is well within the level of ordinary skill leading to eminently predictable results. While it is true that Walker discusses the use of the two systems in the alternative, one of ordinary skill would have recognized that: (1) the combination of identification methods would yield readily apparent benefits; (2) the combination would be within the level of ordinary skill; and (3) the combination would yield predictable results.

Given all of these factors, it becomes apparent that the claimed subject matter is obvious in view of the cited prior art.

Appellant also argues that the combination of references fails to teach a personalized greeting to the player. Raven's figures 2 & 3 both clearly depict a personal greeting (i.e., "Hello Daniel"). Appellant's statement that this greeting is provided by the RFID is not commensurate in scope with the claims.

**B. Rejection of claims 3, 32-37 & 40-42**

Appellant argues that claims 3 & 32 require that the player take a separate physical step to activate the machine. Yet Walker teaches activation of the machine by a separate physical step. Col 6, 39-49 describe a combination of player tracking card & a touch screen or buttons. The implication is that one cannot use the player tracking card without also using the touch screens or buttons. Furthermore, all of the methods of biometric identification described by Walker require a physical action by the player. (Col 6, 59-61)

Of course having a physical activation step just makes common sense. One skilled in the art would have readily recognized that it would be inappropriate to activate

a slot machine just because someone with an RFID walked within range. Imagine the chaos that would ensue if every time a player got within three feet of a slot machine the slot machine started playing. And even if the machine merely loaded the player's personal data when the player was in range, a handful of people walking around the casino would bring the system to its knees. Anyone who gives the problem any thought whatsoever can see that there must be some method of preventing activation of the system until there is some affirmative indication that the player wants to play a particular slot machine.

This also speaks to the obviousness of the claims discussed in the first group above. A contactless card has the danger of inadvertently activating machines unless some additional step is taken to indicate that a player actually wishes to play. Placing one's thumb on a fingerprint reader solves this problem and increases security at the same time.

The problem to be solved (i.e., prevention of inadvertent activation of slot machines) would have been readily apparent to anyone of ordinary skill in the art. One solution is readily apparent -- a requirement that the player take some affirmative physical to indicate an intent to play the machine. This is a simple, direct, common sense solution to the problem that is well within the grasp of anyone of ordinary skill in the art. And like most simple, direct, common sense solutions, this would lead to readily predictable results.

### **C. Rejection of claims 21-22 & 38-38**

Appellant states that these claims depend upon claims 31 & 32 & should stand &

fall with them.

**Note**

Throughout the discussion above, Examiner has repeatedly referred to player tracking and player identification cards. Obviously, a player tracking/identification device may assume any suitable form and are not confined to card embodiments.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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TQAS TC 3700